



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE., NW
WASHINGTON, DC 20004

FEB 28 2018

FINAL SUMMARY REPORT

SUBJECT: EPA Employees Downloading and/or Using Signal Encrypted Messaging
Application on EPA issued Mobile Devices
Case: OI-HQ-2017-ADM-0105

FROM:

(b) (6), (b) (7)(C)

Office of Investigations
Office of Inspector General
United States Environmental Protection Agency

TO:

(b) (6), (b) (7)(C)

Office of Investigations
Office of Inspector General
United States Environmental Protection Agency
(With Attachment)

This Final Summary Report sets forth the Environmental Protection Agency (EPA), Office of Inspector General's (OIG), investigative findings concerning the above-referenced investigation. This report includes a memorandum of activity which includes all relevant investigative documents for your review, see attached.

On February 2, 2017, The Washington Times published an article: *Lawsuit demands EPA say if employees using encrypted messages to evade open-records laws*. The article alleged unnamed EPA employees had downloaded and used unauthorized encryption applications on their EPA devices in violation of EPA policy, and failed to comply with the Federal Records Act (FRA), by not maintaining official EPA records. On February 3, 2017, Patrick Sullivan, Assistant Inspector General for Investigations (AIGI), OIG, EPA, referred these allegations for investigation via the OIG Hotline. On February 14, 2017, the EPA OIG received a Congressional request from the House Committee on Science, Space, and Technology to conduct a review of the situation.

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FOIA EPA-HQ-2017-011341 1/10

The Office of Investigations (OI) identified and investigated the following allegation: Did EPA employees use the Signal application to communicate official EPA business in violation of EPA policy¹ and the FRA?²

Based upon the OI's investigation, no evidence was found to support the allegation the Signal application was being used by EPA employees on their EPA issued mobile devices to purposely circumvent the applicable Federal record retention rules. The evidence supports the finding that (b) (6), (b) (7)(C) Office of Investigations, was in technical violation of EPA policy which restricts the downloading of applications onto EPA devices not approved by the EPA's Office of Environmental Information (OEI).

On February 6, 2017, the OI requested the OEI conduct a search of all EPA issued mobile devices (iPhones). The results of this search identified that one (1) EPA employee³ and one (1) EPA-OIG employee had the Signal application on their EPA issued mobile device. On March 3, 2017, (b) (6), (b) (7)(C) was interviewed by OIG special agents (b) (6), (b) (7)(C) had downloaded Signal to see if there was a suitable law enforcement purpose for the application. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) wanted to see if the application could be used for undercover work, but didn't find any reason to keep the application on (b) (6), (b) (7)(C) EPA mobile device. (b) (6), (b) (7)(C) deleted the application on (b) (6), (b) (7)(C) own accord a couple of months ago (b) (6), (b) (7)(C) denied conducting any official EPA business with the Signal application.

On July 19, 2017, the OI consulted with the U.S. Attorney's Office (USAO), Washington, DC, regarding this matter. The USAO agreed there was no discernable crime committed, and the case should be handled administratively.

My office is taking no further investigatory action on this matter. Please advise this office within 30 days of any action you take or propose in this case. This final summary report is "For Official Use Only" and its disclosure to unauthorized individuals is prohibited.

¹ EPA CIO Policy #2104.0 states in relevant part, "Only software that has been approved by the IMO or the Agency's Chief Technology Officer and properly acquired by the Agency may be installed on EPA computer systems." The EPA provides employees with an App Catalog (MaaS360) of approved applications for their mobile devices. Employees are only authorized to download applications from the App Catalog installed on their iPhone/iPad. EPA CIO Policy #2104.0 states in relevant part, "Only software that has been approved by the IMO or the Agency's Chief Technology Officer and properly acquired by the Agency may be installed on EPA computer systems." In support of this policy, on or about June 13, 2017, the agency disabled the ability of iPhone 6 and iPad users to download the Apple Store app. Exceptions were made for On-Scene Coordinators and other emergency responder staff; moreover, the agency is still in the process of removing the Apple Store app on older iPhone 5 models.

² 44 USC § 3101 et seq.; see also 18 USC § 1519 states, "Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both."

³ The investigative findings regarding the EPA employee will be submitted as a separate Final Summary Report to the EPA.

ATTACHMENT

Memorandum of Activity – Final Summary Report Attachments for Case Number: OI-HQ-2017-ADM-0105



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WASHINGTON, DC 20004

FEB 28 2018

FINAL SUMMARY REPORT

SUBJECT: EPA Employees Downloading and/or Using Signal Encrypted Messaging Application on EPA issued Mobile Devices
Case: OI-HQ-2017-ADM-0105

FROM: Patrick F. Sullivan
Assistant Inspector General for Investigations
Office of Investigations
Office of Inspector General
United States Environmental Protection Agency

TO: Michael P. Flynn
Acting Deputy Administrator
Office of the Administrator
United States Environmental Protection Agency
(With Attachment)

CC: Wendy Blake
Associate General Counsel
General Law Office
Office of General Counsel
United States Environmental Protection Agency
(With Attachment)

This Final Summary Report sets forth the Environmental Protection Agency (EPA), Office of Inspector General's (OIG), investigative findings concerning the above-referenced investigation. This report includes a memorandum of activity which includes all relevant investigative documents for your review, see attached.

On February 2, 2017, The Washington Times published an article: *Lawsuit demands EPA say if employees using encrypted messages to evade open-records laws*. The article alleged unnamed EPA employees had downloaded and used unauthorized encryption applications on their EPA devices in violation of EPA policy, and failed to comply with the Federal Records Act (FRA), by not maintaining official EPA records. On February 3, 2017, Patrick Sullivan, Assistant Inspector General for Investigations (AIGI), OIG, EPA, referred these allegations for investigation via the OIG Hotline. On February 14, 2017, the EPA OIG received a Congressional request from the House Committee on Science, Space, and Technology to conduct a review of the situation.

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The Office of Investigations (OI) identified and investigated the following allegation: Did EPA employees use the Signal application to communicate official EPA business in violation of EPA policy¹ and the FRA². Based upon the OI's investigation, no evidence was found to support the allegation the Signal application was being used by EPA employees on their EPA issued mobile devices to purposely circumvent the applicable Federal record retention rules. The evidence supports the finding that (b) (6), (b) (7)(C) Office of the Science Advisor, either knowingly or unknowingly, technically violated EPA policy which restricts the downloading of applications onto EPA devices not approved by the EPA's Office of Environmental Information (OEI).

On February 6, 2017, the OI requested the OEI conduct a search of all EPA issued mobile devices (iPhones). The results of this search identified that one (1) EPA employee and one (1) EPA-OIG employee³ had the Signal application on their EPA issued mobile device. On May 23, 2017, OIG special agents interviewed (b) (6), (b) (7)(C) denied having downloaded Signal to (b) (6), (b) (7)(C) EPA issued mobile device and stated (b) (6), (b) (7)(C) had no knowledge of the Signal application. (b) (6), (b) (7)(C) gave verbal consent for the special agents to view the applications on (b) (6), (b) (7)(C) EPA mobile device. The Signal application did not appear to be currently installed on the phone. (b) (6), (b) (7)(C) stated (b) (6), (b) (7)(C) personal Apple ID or (b) (6), (b) (7)(C) EPA mobile phone. It is possible that (b) (6), (b) (7)(C) personal applications populated (b) (6), (b) (7)(C) EPA mobile phone when (b) (6), (b) (7)(C) synced (b) (6), (b) (7)(C) personal account. However, (b) (6), (b) (7)(C) stated (b) (6), (b) (7)(C) did not recall having Signal on (b) (6), (b) (7)(C) personal phone.

On July 19, 2017, the OI consulted with the U.S. Attorney's Office (USAO), Washington, DC, regarding this matter. The USAO agreed there was no discernable crime committed, and the case should be handled administratively.

My office is taking no further investigatory action on this matter. Please advise this office within 30 days of any action you take or propose in this case. This final summary report is "For Official Use Only" and its disclosure to unauthorized individuals is prohibited.

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¹EPA CIO Policy #2104.0 states in relevant part, "Only software that has been approved by the IMO or the Agency's Chief Technology Officer and properly acquired by the Agency may be installed on EPA computer systems." The EPA provides employees with an App Catalog (MaaS360) of approved applications for their mobile devices. Employees are only authorized to download applications from the App Catalog installed on their iPhone/iPad. EPA CIO Policy #2104.0 states in relevant part, "Only software that has been approved by the IMO or the Agency's Chief Technology Officer and properly acquired by the Agency may be installed on EPA computer systems." In support of this policy, on or about June 13, 2017, the agency disabled the ability of iPhone 6 and iPad users to download the Apple Store app. Exceptions were made for On-Scene Coordinators and other emergency responder staff; moreover, the agency is still in the process of removing the Apple Store app on older iPhone 5 models.

²44 USC § 3101 et seq.; see also 18 USC § 1519 states, "Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both."

³The investigative findings regarding the EPA OIG employee will be submitted as a separate Final Summary Report to the EPA OIG.



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

1301 CONSTITUTION AVE., NW
WASHINGTON, DC 20004

FEB 27 2018

FINAL SUMMARY REPORT

SUBJECT: Multiple Known EPA Employees Using and/or Downloading WhatsApp onto
EPA-issued Devices

Case: OI-HQ-2016-ADM-0072

FROM: Patrick F. Sullivan *Patrick F. Sullivan*
Assistant Inspector General for Investigations
Office of Investigations
Office of Inspector General
United States Environmental Protection Agency

TO: Michael Flynn
Assistant Administrator
United States Environmental Protection Agency
(With Attachments)

CC: Wendy Blake
Associate General Counsel
General Law Office
Office of General Counsel
United States Environmental Protection Agency
(With Attachments)

This Final Summary Report sets forth the Environmental Protection Agency (EPA), Office of Inspector General's (OIG), investigative findings concerning the above-referenced investigation. This report includes a memorandum of activity which includes all relevant investigative documents for your review, see attachment I.

As background, on February 2, 2017, The Washington Times published an article: *Lawsuit demands EPA say if employees using encrypted messages to evade open-records laws*, which alleged unnamed EPA employees have downloaded and are using unauthorized encryption apps on their EPA devices in violation of EPA policy and failing to comply with the Federal Records Act (FRA), by not maintaining official EPA records. On February 3, 2017 Patrick Sullivan, Assistant Inspector General for Investigations (AIGI), EPA, Office of Inspector General (OIG), referred these allegations for investigation via the OIG Hotline for initiation. On February 14, 2017, the EPA OIG received a Congressional request from the House of Representatives Subcommittee on Science, Space, and Technology to conduct an investigation into the use of EPA employees of unauthorized encryption applications on their EPA-issued devices.

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On March 8th, 2017, OI opened an investigation of the following allegation: Whether EPA employees using the WhatsApp¹ application to communicate in violation of EPA policy² and the FRA.³

Based upon OI's investigation, the evidence supports a finding that 58 EPA employees, either knowingly or unknowingly, were in technical violation of EPA policy which restricted the downloading of applications onto EPA devices not approved by the EPA's Office of Environmental Information (OEI). Further, OI identified only two EPA employees who conducted EPA business using WhatsApp. Both of these EPA employees had only used the application for scheduling official meetings while overseas, not for conducting substantive official EPA business. No evidence was found to support that the WhatsApp application was being used by EPA employees on their EPA issued mobile devices to purposely circumvent the applicable Federal record retention rules. One EPA employee was interviewed twice which resulted in the total number of employee interviews to reach 59, one number higher than the total number of employees identified as having downloaded the WhatsApp application onto their EPA-issued mobile device.

Specifically, on February 17, 2017, OI received the results of a requested search of all EPA issued mobile devices (iPhones) by EPA's OEI. The results of this search identified that 58 EPA employees had the WhatsApp application on their EPA issued mobile device. Based upon this information, OI proceeded to conduct voluntary interviews of all EPA employees who were identified to have the WhatsApp application downloaded onto their EPA issued mobile device. Two EPA employees admitted to using WhatsApp for official EPA work. Each EPA employee provided their EPA iPhones to the interviewing agents who then examined the contents of any conversations within the WhatsApp application. At the conclusion of each interview, OI special agents advised each EPA interviewee to inform their immediate supervisor of the presence of WhatsApp on the EPA device, and to confirm the application's deletion with management. One EPA employee with WhatsApp on their EPA-issued iPhone no longer was employed by the agency at the time of the interviews.

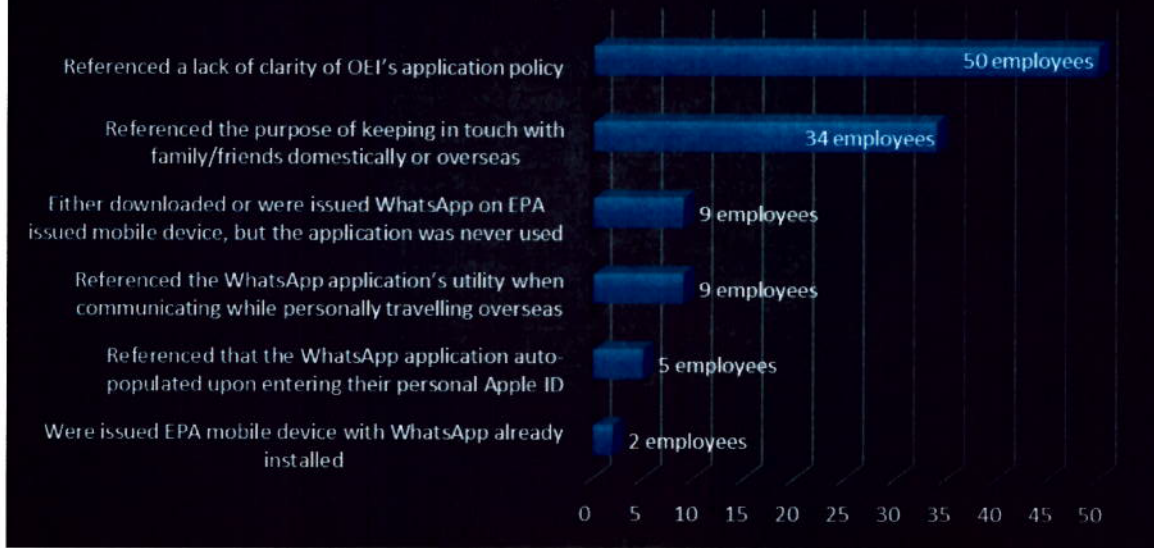
Based upon the totality of the information collected by OI special agents in conducting fifty-nine (59) interviews, the information provided was analyzed and the following metrics were identified to clarify the motivation and intent of the EPA employees to download WhatsApp onto the EPA issued mobile devices:

¹ WhatsApp is an application that provides free text messaging by using the phone's internet connection to send messages to avoid SMS fees. <https://www.whatsapp.com/features/>. It should be noted that OI was alerted by OEI of the presence of WhatsApp on EPA issued mobile devices after OI requested OEI identify any encrypted messaging application downloaded onto such devices.

² EPA CIO Policy # 2104.0 states, "Only software that has been approved by the IMO or the Agency's Chief Technology Officer and properly acquired by the Agency may be installed on EPA computer systems."

³ Federal record retention rules are both regulatory and criminal. 36 CFR 1220 mandates that all federal agencies actively maintain official records. 18 USC 1519 states, "Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both."

**EPA employees' motivation and intent to download WhatsApp
onto their EPA issued mobile devices
(derived from 59 EPA employee interviews)**



On July 19, 2017, the OI consulted with the U.S. Attorney's Office (USAO), Washington, DC, regarding this matter. The USAO agreed there was no discernable crime committed, and the case should be handled administratively.

My office is taking no further investigatory action on this matter. Please advise this office within 30 days of any action you take or propose in this matter. This final summary report is "For Official Use Only" and its disclosure to unauthorized individuals is prohibited.

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Memorandum of Activity - Final Summary Report Attachment



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Activity - Final Summ